Human Rights

HUMAN RIGHTS AND REFUGEES

Fact Sheet No. 20

World Campaign for Human Rights

Human rights and refugees

Introduction

The problem of the world's refugees and internally displaced is among the most complicated issues before the world community today. Much discussion is taking place at the United Nations as it continues to search for more effective ways to protect and assist these particularly vulnerable groups.

While some call for increased levels of cooperation and coordination among relief agencies, others point to gaps in international legislation and appeal for further standard-setting in this area. Everyone, however, agrees that the problem is both multidimensional and global. Any approach or solution would therefore have to be comprehensive and to address all aspects of the issue, from the causes of mass exodus to the elaboration of responses necessary to cover the range of refugee situations from emergencies to repatriation.

In this debate some facts remain beyond dispute. The first is that while some mass displacements may be preventable, none are voluntary. No one likes or chooses to be a refugee. Being a refugee means more than being an alien. It means living in exile and depending on others for such basic needs as food, clothing and shelter.

Information on the number of the world's refugees, their geographical distribution, and the causes of their exodus is generally available. Seen from a chronological perspective, this information suggests that the refugee problem has undergone drastic quantitative and qualitative changes in the past five decades.

Since its creation, the United Nations has worked to protect refugees around the world. In 1951, the year in which the Office of the United Nations High Commissioner for Refugees (UNHCR) was established, there were an estimated 1 million refugees within UNHCR's

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mandate. Today that number has grown to an estimated 17.5 million refugees, an additional 2.5 million refugees cared for by the United Nations Relief and Works Agency for Palestine refugees in the Near East (UNRWA) and more than 25 million internally displaced persons.

In 1951 most of the refugees were European. The majority of today's refugees are from Africa and Asia. Current refugee movements, unlike those of the past, increasingly take the form of mass exoduses rather than individual flights. Eighty per cent of today's refugees are women and children.

The causes of exodus have also multiplied and now include natural or ecological disasters and extreme poverty. As a result, many of today's refugees do not fit the definition contained in the Convention relating to the Status of Refugees. This refers to victims of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

The United Nations system has also been very concerned by the rise in the number of mass internal displacements in recent years. The "internally displaced" are persons who are forced to flee their homes but remain within the territory of their own country.[1] Since they remain inside their own countries, these persons are excluded from the present system of refugee protection. Most of the internally displaced populations are in developing countries and are composed largely of women and children. In some countries, the internally displaced make up more than 10 per cent of the population.

The refugee situation has become a classic example of the interdependence of the international community. It fully demonstrates how the problems of one country can have immediate consequences for other countries. It is also an example of interdependence between issues.

There is a clear relationship between the refugee problem and the issue of human rights. Violations of human rights are not only among the major causes of mass exoduses but also rule out the option of voluntary repatriation for as long as they persist. Violations of rights of

[1] *Analytical report of the Secretary-General on internally-displaced persons*, document E/CN.4/1992/23, p. 4.

minorities and ethnic conflicts are increasingly at the source of both mass exoduses and internal displacements.

Disregard for the minimum rights of refugees and internally displaced persons is another dimension of the relationship between the two issues. During the process of seeking asylum, a growing number of people are faced with restrictive measures which deny them access to safe territories. In some instances asylum-seekers and refugees are detained or forcibly returned to areas where their lives, liberty and security are threatened. Some are attacked by armed groups, or recruited into armed forces and forced to fight for one side or the other in civil conflicts. Asylum-seekers and refugees are also victims of racist aggression.

Refugees have rights which should be respected prior to, during, and after the process of seeking asylum. Respect for human rights is a necessary condition for both preventing and resolving today's refugee flows. In the words of the United Nations High Commissioner for Refugees, Sadako Ogata, "[t]he refugee issue must be put to all governments and peoples as a test of their commitment to human rights".

The United Nations and refugees

Revolutionary technological developments in transportation and communications have led to the mass flows of people, goods and information across frontiers throughout the twentieth century.

However, not all human movements of the century have been voluntary. Modern technology has also brought about the development of weapons of mass destruction. As a result, violence has become the greatest factor in instigating involuntary departures from homelands. Two World Wars, and some 130 armed conflicts since 1945 have given rise to millions of mass displacements and exoduses in the world.

Those who drafted the Charter of the United Nations had in mind the painful memories of generalized violence and mass sufferings and called upon its signatories "... to save succeeding generations from the scourge of war...". They asked the United Nations to help achieve "international cooperation in solving international problems of an economic, social, cultural, or humanitarian character" and to promote and encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

One of the first issues on the agenda of the United Nations was the fate of refugees, displaced persons, stateless persons and "returnees," all uprooted by war and in need of assistance. The problem was clearly both international and humanitarian.

International Refugee Organization

At its second session in the latter part of 1946, the General Assembly established the International Refugee Organization (IRO). The Organization took over the tasks of the United Nations Relief and Rehabilitation Agency (UNRRA). It received a temporary mandate to register, protect, resettle, and repatriate refugees.

The refugees came from some 30 countries—mainly Eastern European. From July 1947 to January 1952, the IRO helped to resettle over 1 million refugees in third countries, repatriated 73,000, and made arrangements for 410,000 who remained displaced in their home countries.

As a result of post-war political tensions, IRO operations were both controversial and inadequately funded. Only 18 of the 54 member States contributed to the budget of the Organization. In addition, the cost of financing operations was rapidly increasing and by 1951 had reached US$ 400 million.

It soon became evident that the responsibility for refugees deserved further international effort under the auspices of the United Nations itself. Consequently, discussions about the establishment of a successor organization began long before the expiration of IRO's mandate.

United Nations High Commissioner for Refugees (UNHCR)

In its resolution 319 A (IV) of 3 December 1949, the General Assembly decided to establish the Office of the United Nations High Commissioner for Refugees. The Office was set up as a subsidiary organ of the General Assembly on 1 January 1951, initially for a period of three years.

The mandate of UNHCR has since been routinely extended for successive periods of five years and the current term ends on 31 December 1993. It now cares for over 17 million refugees around the world. The Office is located at Geneva, Switzerland, and is represented in over 100 different countries. In 1991 it had a staff of about 2,300 persons and an overall expenditure, under general and special programmes, of some US$ 862.5 million.

According to article 1 of the Statute of the Office, the main task of the High Commissioner is to provide international protection to refugees and to seek durable solutions for refugees by assisting Governments to facilitate the voluntary repatriation of refugees, or their integration within new national communities. The High Commissioner's function is qualified as "entirely non-political" and "humanitarian and social."

In fulfilling its protection function, the tasks of the High Commissioner as set out in the Statute, include:

(*a*) Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments;

(*b*) Promoting measures to improve the situation of refugees and to reduce the number requiring protection;

(*c*) Assisting efforts to promote voluntary repatriation or assimilation within new national communities;

(*d*) Promoting the admission of refugees to the territories of States;

(*e*) Facilitating the transfer of the assets of refugees; obtaining from Governments information concerning the number and conditions of refugees in their territories, and the relevant laws and regulations;

(*f*) Keeping in close touch with Governments and intergovernmental organizations;

(*g*) Establishing contact with private organizations dealing with refugee questions;

(*i*) Facilitating the coordination of private efforts.

Protection tasks have diversified even further over the years since the drafting of the Statute.

International refugee law

A number of international instruments establish and define basic standards for the treatment of refugees. The most important are the 1951 United Nations Convention relating to the Status of Refugees, and its 1967 Protocol relating to the Status of Refugees.

The 1951 Convention relating to the Status of Refugees

The 1951 Convention, which was drafted as a result of a recommendation by the newly established United Nations Commission on Human Rights, was a landmark in setting standards for the treatment of refugees.

The Convention, in its article 1, provides a general definition of the term "refugee". The term applies to any person who "as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is un-

willing to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".

The Convention sets the minimum standards of treatment of refugees, including the basic rights to which they are entitled. It also establishes the juridical status of refugees and contains provisions on their rights to gainful employment and welfare, on the issue of identity papers and travel documents, on the applicability of fiscal charges, and on their right to transfer their assets to another country where they have been admitted for the purposes of resettlement.

The Convention prohibits the expulsion or forcible return of persons having refugee status. Its article 33 stipulates that "no Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". Article 34 concerns the naturalization and assimilation of refugees. Other provisions deal with such rights as access to courts, education, social security, housing and freedom of movement.

1967 Protocol relating to the Status of Refugees

The 1951 Convention could benefit only persons who had become refugees as a result of events occurring prior to 1 January 1951. However, the years following 1951 showed that refugee movements were not merely the temporary results of the Second World War and its aftermath.

Throughout the late 1950s and 1960s new refugee groups emerged, in particular in Africa. These refugees were in need of protection which could not be granted to them under the limited time-frame of the 1951 Convention.

The 1967 Protocol extended the application of the Convention to the situation of "new refugees", i.e. persons who, while meeting the

Convention definition, had become refugees as a result of events that took place after 1 January 1951.

As of 1 April 1992, 111 States were party to the 1951 Convention and/or the 1967 Protocol.

Other international instruments

Other Conventions and Declarations, some of which are mentioned below, contain provisions which may be relevant to refugees.

The *1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*: article 44 of this Convention, whose aim is the protection of civilian victims, deals with refugees and displaced persons. Article 73 of the *1977 Additional Protocol* stipulates that refugees and stateless persons shall be protected persons under parts I and III of the Fourth Geneva Convention.

The *1954 Convention relating to the Status of Stateless Persons*: defines the term "stateless person" as a person who is not considered as a national by any State under the operation of its law. It further prescribes the standards of treatment to be accorded to stateless persons.

The *1961 Convention on the Reduction of Statelessness*: a State party to this Convention agrees to grant its nationality to a person born in its territory who would otherwise be stateless. The State also agrees, subject to certain conditions, not to deprive a person of his nationality if such deprivation would render him stateless. The Convention specifies that a person or groups of persons shall not be deprived of their nationality on racial, ethnic, religious or political grounds.

The *1967 United Nations Declaration on Territorial Asylum*: this Declaration of the United Nations General Assembly lays down a series of fundamental principles in regard to territorial asylum. It states that the granting of territorial asylum "is a peaceful and humanitarian act and that, as such, it cannot be regarded as unfriendly by any other State." It upholds the basic humanitarian principle of non-refoulement

and recalls articles 13 and 14 of the Universal Declaration of Human Rights, which spell out, respectively, the right to leave any country and to return to one's country and the right to seek and enjoy asylum.

Regional instruments

Africa

The growing number of refugees fleeing wars and internal conflicts in Africa, starting in the late 1950s, led to the adoption of what is generally considered the most comprehensive and significant regional treaty dealing with refugees. The Organization of African Unity, on 10 September 1969, adopted the OAU Convention governing the specific aspects of refugee problems in Africa. The primary importance of this Convention is its expanded definition of the term refugee. African States felt that "well-founded fear of persecution" was not sufficiently wide a criterion to cover all the refugee situations in Africa.

The second paragraph of article 1 of the African Convention provides that "the term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality".

The OAU Convention complements rather than duplicates the 1951 Convention. Apart from the broad refugee definition, the OAU Convention regulates the question of asylum (art. II). It also contains important provisions on voluntary repatriation (art. V) and on the prohibition of subversive activities by refugees (art. III).

As of February 1992, the OAU Convention had been ratified by 42 States.

Europe

The Council of Europe has adopted several instruments concerning refugees. Some of the most important are:

(*a*) European Agreement on the Abolition of Visas for Refugees (1959);

(*b*) Resolution 14 (1967) on Asylum to Persons in Danger of Persecution;

(*c*) European Agreement on Transfer of Responsibility for Refugees (1980);

(*d*) Recommendation on the Harmonization of National Procedures Relating to Asylum (1981);

(*e*) Recommendation on the Protection of Persons Satisfying the criteria in the Geneva Convention who are not Formally Refugees (1984);

(*f*) Dublin Convention (1990), which lays down criteria for determining which member State is responsible for examining an asylum request when the applicant has filed an application for asylum with one or more member States of the Community.

European Conventions on extradition and social security also contain provisions on refugees. Other instruments concluded by European Community member States are listed below.

Latin America

Latin America has a long tradition of asylum. The Montevideo Treaty on International Criminal Law, signed in 1889, was the first regional instrument which dealt with asylum. It was followed by the Caracas Convention on Territorial Asylum, signed in 1954, and other instruments on asylum.

In the 1980s, the outbreak of civil strife in Central America resulted in massive exoduses of close to a million persons, posing serious

economic and social problems for the countries towards which this massive flow was directed.

In 1984, these "host" countries adopted the Cartagena Declaration on Refugees which laid down the legal foundations for the treatment of Central American refugees, including the principle of non-refoulement, the importance of integrating refugees and undertaking efforts to eradicate the causes of the refugee problem.

The definition of "refugee" in the Declaration is similar to that of the OAU Convention—including as it does "persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order" (part III, para. 3).

The Cartagena Declaration is not binding on States. It is, however, applied in practice by a number of Latin American States and, in some cases, has been incorporated into domestic legislation.

Human rights and refugees

Asylum seekers and refugees are entitled to all the rights and fundamental freedoms that are spelled out in international human rights instruments. The protection of the refugee must therefore be seen in the broader context of the protection of human rights. The creation by States, in the aftermath of the Second World War, of two separate organizations to deal with human rights and refugees respectively, does not mean that these issues are not interrelated.

The work of the United Nations in the field of human rights and that of the High Commissioner for Refugees is inextricably linked in the sense that both entities share a common purpose which is the safeguarding of human dignity. The human rights programme of the United Nations deals with the rights of individuals in the territory of States. The refugee organization was established in order to restore minimum rights to persons after they leave their countries of origin.

The substantive link between human rights and refugees raises several questions:

In the first place, who is a refugee and what are his or her rights under international law? What are the rights of those asylum seekers who fail to qualify as refugees under the 1951 Convention and the 1967 Protocol? How can refugees be distinguished from economic migrants? Can the international community deny protection to those who claim not to receive protection from their country of origin?

Moreover, what exactly is the link between violations of human rights and movements of refugees? To what extent are those violations the causes of mass exoduses? In what ways can the rights of refugees be violated in the process of asylum-seeking in host countries?

Finally, what is the relationship between repatriation and human rights? Can repatriation be truly voluntary when the country of origin is unable, or unwilling, to guarantee respect for the civil, political, economic, social and cultural rights of its citizens?

Rights of refugees

The present concept of international protection has evolved gradually and today implies a series of institutional and legal responses. Protecting refugees and seeking durable solutions to their problems are the two main functions of the High Commissioner for Refugees.

In practical terms, the task of international protection includes the prevention of refoulement, assistance in the processing of asylum seekers, providing legal counsel and aid, promoting arrangements for the physical safety of refugees, promoting and assisting voluntary repatriation, and helping refugees to resettle (article 8 of the Statute of the Office of the UNHCR).

Thus, the international protection function has a legal basis, and its exercise is mandatory for the High Commissioner. The right to protection, although not defined as a separate right as such, is implicit in the 1951 Convention and its fundamental provisions, particularly the principle of non-refoulement.

In addition, many universally recognized human rights are directly applicable to refugees. These include the right to life, protection from torture and ill-treatment, the right to a nationality, the right to freedom of movement, the right to leave any country, including one's own, and to return to one's country, and the right not to be forcibly returned.

These rights are affirmed, among other civil, political, economic, social and cultural rights, for all persons, citizens and non-citizens alike, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights which together make up the International Bill of Human Rights.

(*a*) "*No one shall be subject to* arbitrary arrest, detention or *exile*" (Universal Declaration of Human Rights, article 9);

(*b*) "Everyone has the *right to seek and to enjoy in other countries asylum from persecution.*" (Universal Declaration of Human Rights, article 14);

(*c*) "Everyone has the *right to a nationality.*" (Universal Declaration of Human Rights, article 15);

(*d*) "Everyone has the *right to freedom of movement and residence within the borders of each State.* Everyone has the right to *leave any country, including his own, and to return to his country.*" (Universal Declaration of Human Rights, article 13; International Covenant on Civil and Political Rights, article 12).

Non-refoulement

Not all of the important rights for refugees are mentioned specifically in the International Bill of Human Rights. A central element of international protection is the right not to be forcibly returned or expelled to a situation which would threaten ones life or freedom. This is the principle of non-refoulement which is embodied in article 33 of the 1951 Convention.

The principle of non-refoulement finds further expression in article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which stipu-

lates that "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." (para. 1) Furthermore, "for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." (para. 2)

Refugee or economic migrant?

Some countries contend that the majority of asylum seekers are in fact not refugees but economic migrants. Currently, only an estimated 10 to 20 per cent of asylum seekers are granted refugee status in these countries.

Contemporary refugee movements are different from those of the period immediately following the Second World War. Reasons for leaving are very often complex and not simply the result of immediate persecution. Persons flee because of civil conflicts, massive violations of their human rights, foreign aggression and occupation, poverty, famine, disease and ecological disasters. Many do not qualify as refugees on the basis of the United Nations definition.

In order to qualify, the person must be a "political" refugee. The 1951 Convention relating to the Status of Refugees places emphasis on "fear of persecution" but it does not define the term clearly. Its article 33 refers to threats to life and freedom of the individual "on account of his race, religion, nationality, membership of a particular social group or political opinion". This definition was drawn up in the context of the post-war years and does not correspond to many of today's refugee situations.

As a result some countries, especially in Africa and Latin America have expanded the definition of the term "refugee". In many other countries, however, the majority of applications for asylum are rejected on a strict reading of the 1951 definition.

From a human rights perspective, this situation raises great concern. It will not always be possible to distinguish, with certainty, be-

tween a refugee and an economic migrant. It may be argued that if the emphasis is placed on threats to life and freedom, there is little to distinguish between a person facing death through starvation and another threatened with arbitrary execution because of her political beliefs.

These considerations aside, the fact remains that regardless of whether a person is a refugee or an economic migrant, a citizen or a non-citizen, whether he or she is fleeing persecution, armed conflict, threats to his or her life or abject poverty, that person is entitled to minimum human rights and minimum standards of treatment.

Violations of human rights and refugees

Violations of human rights as origins of mass exodus

Since 1980, both the United Nations General Assembly and the Commission on Human Rights have focused on ways to prevent mass exoduses. The Commission has included the question of human rights and mass exoduses in its agenda annually and in a number of resolutions it has emphasized the linkage between human rights violations and refugee movements. In recent years the Commission has also considered the plight of the internally displaced.

These two bodies, through various resolutions, have requested the Secretary-General to prepare reports on "International Cooperation to Avert New Flows of Refugees", appointed a Special Rapporteur to study the question of human rights and mass exoduses, and set up a 17-member Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees.

The Special Rapporteur presented his study[2] to the thirty-eighth session of the Commission on Human Rights in 1982. According to the report, mass exoduses do not only cause human deprivation and misery, but also place increasingly heavy burdens on the international community. In the light of the changing nature of refugee problems, the three traditional solutions of voluntary repatriation, local settlement and resettlement continue to be viable but must also be supplemented by other approaches.

The Special Rapporteur highlighted the multiplicity and complexity of the origins of mass exoduses. He identified violations of human rights as a major cause of mass exoduses:

"It is abundantly clear that unless ways can be found to counteract the withholding of, or outright violations of, human rights, unless there is a more equitable sharing of the world's resources, more restraint and tolerance, the granting to everyone, regardless of race, religion, membership of a particular social group or political party, the right to belong—or alternatively to move in an orderly fashion to seek work, decent living conditions and freedom from strife—the world will continue to have to live with the problem of mass exodus. This problem, if left unchecked, will increasingly pose a threat to peace and stability around the globe."[3]

The final report of the Group of Governmental Experts[4] also stressed the complex and often interrelated political, economic, social and natural causes of mass exoduses. In its recommendations, the Group proposed that the General Assembly call upon Member States to avert new massive flows of refugees by respecting the principles of the Charter, in particular by not resorting to the threat or use of force, by settling their disputes peacefully, by promoting human rights and refraining from creating conditions which could lead to massive flows of refugees, by cooperating with one another in order to prevent future flows of refugees, and by respecting international laws governing the treatment of refugees.

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[2] Document E/CN.4/1503.

[3] Ibid., para. 9.

[4] Document A/41/324, annex.

Following a recommendation by the Special Rapporteur in his report, the Secretary-General set up the Office for Research and the Collection of Information (ORCI) from 1987 to 1991. The Office served as a focal point for undertaking early warning activities to avert new and massive flows of refugees, for monitoring factors related to possible flows of refugees and displaced persons and comparable emergencies, as well as for preparing plans for possible responses. These functions are now being undertaken by the United Nations Department of Political Affairs.

Such activities are an important part of the new and comprehensive approaches being considered by the international community to prevent massive flows of refugees. Prevention requires dealing with the root causes of problems. There is now increasing focus on political and economic conditions of countries of origin of refugees, including internal and external conflict, violations of human rights and level of development and economic performance. These issues are all interrelated. States have repeatedly emphasized that human rights are interdependent and include not only civil and political rights, but also economic, social and cultural rights. Respect for all these rights is the necessary condition for the attainment of human development and the preservation of human dignity.

In addition to its work on preventing mass exoduses, the Commission on Human Rights has, in recent years, also considered the plight of the internally displaced. In 1992, a representative of the Secretary-General was appointed *inter alia* to gather information on the human rights issues related to internally displaced persons and to examine existing international human rights, humanitarian and refugee laws and standards and their applicability to internally displaced persons. The Representative's report was presented to the Commission the following year, at its forty-ninth session.[5]

The report recommended that a comprehensive mechanism be established within the international system to address the problems of displaced persons recognizing that the human rights aspect of this issue intersects with the humanitarian, the political and the economic dimensions. One important function of this mechanism would be the monitoring of situations with a view to detecting early signs of displace-

[5] Document E/CN.4/1993/35.

ment. This early warning system could be the first step in a coordinated process aimed at ameliorating the suffering of displaced masses and averting further displacements.

Violations of rights of refugees

The international community has now recognized that human rights violations are a major cause of mass exoduses. While efforts continue to remedy the problem at its source, attention is turning to the difficulties that asylum-seekers encounter after they leave their countries of origin. Three issues are giving rise to concern. The first is the disturbing tendency to close doors to asylum-seekers. The second relates to violations of the minimum rights of asylum-seekers during the process of applying for asylum and also after refugee status has been granted. Intolerance, racism, xenophobia, aggression, national and ethnic tensions and conflicts are on the rise in many places and affect many groups, in particular asylum-seekers and refugees. The third issue is the persistence of human rights violations in countries of origin and the need to address those violations before refugees can be voluntarily repatriated.

Restrictive measures

There is a growing tendency to close doors to asylum-seekers. Some Governments, faced with an influx of asylum-seekers, economic migrants and illegal aliens, have introduced restrictive measures that hinder access to their territories. These measures include complicated or burdensome visa requirements for nationals of some countries and fines imposed on airlines that carry undocumented aliens.

Ill-treatment of asylum-seekers

In some cases the minimum standards of treatment of asylum-seekers are not respected. Inadequate refugee-determination procedures

and refoulement at airports and borders cause enormous problems for some asylum-seekers. At times refoulement takes inhumane forms such as the forcible return of asylum-seekers to the countries of origin where their lives, liberties and security may be threatened. Boats of asylum-seekers have even been pushed back to sea to die of hunger or make an easy prey for pirates and sharks when they have attempted to land on certain shores.

Other examples of ill-treatment include physical assaults, the detention of asylum-seekers for extended periods and without legitimate reasons and harsh interrogation procedures. A Government may also fail to provide adequate protection to refugees and asylum-seekers—thereby exposing them to physical danger from racist and xenophobic aggression.

Denial of rights of asylum-seekers

The problems of asylum-seekers do not end when they finally cross borders and go through the first phase of seeking asylum, which, as mentioned above, often involves periods of detention and/or interrogation. While their application for asylum is being processed, and even after their refugee status has been determined, they may be confronted by numerous restrictions and obstacles.

In some instances refugees are confined to camps and refused access to courts and legal aid. Moreover, refugees may find themselves unable to obtain employment, own businesses or purchase land. In fact, in many cases where refugees are not forcibly returned they may feel compelled to leave owing to the degrading conditions of life to which they are subjected in host countries.

Violations of the rights to life, liberty and security

In some places refugees are regularly subjected to attacks and abuse. Many have died in military or armed attacks on refugee camps and settlements. Young males and minors are frequently recruited into armed or guerrilla bands and forced to fight in civil wars.

Attacks on refugee camps have been condemned by the United Nations General Assembly in numerous resolutions. The Commission on Human Rights has also been concerned with specific cases, such as attacks on Palestinian refugees in Lebanese camps and attacks on the Thai-Cambodian border. Refugee women and children are a particularly vulnerable group. The Convention on the Rights of the Child (1989) makes a specific provision for giving "appropriate protection and humanitarian assistance" (art. 22) to the refugee child. Women make up a large proportion of the world's refugee population. They are very frequently subjected to physical and sexual abuse in countries of refuge.

Refugees and xenophobic or racist aggression

There has been a marked increase in violent attacks against refugees and asylum-seekers in recent years. Today, refugees in some countries, where such phenomena have reached large proportions, live with the constant fear of physical assaults and threats to their lives and security.

Refugees, as a particularly vulnerable group of foreigners, often become the primary targets of racist hatred. Political debates in some countries have tended to blur all the issues that relate to foreigners. Asylum-seekers, refugees, economic migrants, immigrants and seasonal workers are often lumped together as foreigners.

The consequences have been threefold. First, the principles of protection and non-refoulement of refugees have been repeatedly violated. Secondly, the number of violent incidents perpetrated against refugees has increased. Thirdly, the refugee issue has come to be seen in political, rather than humanitarian terms and the lines between immigration policy and refugee policy have started to blur.

Violations of human rights and voluntary return

The final link between human rights and refugee problems lies in the issue of durable solutions. Article 1, paragraph C, of the Conven-

tion relating to the Status of Refugees stipulates that refugee status is not permanent and enumerates the conditions under which the Convention can cease to apply.

Exile is neither a durable nor a truly humanitarian solution for refugees. Exile, as a form of compelled separation from the homeland, is only a temporary respite. Repatriation, however, is feasible and humanitarian only when it is carried out on a voluntary basis and when it takes into account respect for the human rights of refugees.

As long as violations of human rights persist in countries of origin, it is doubtful whether any refugee would decide to return voluntarily. Hence, the restoration of respect for and the promotion of all categories of human rights and the cessation of violent conflict in countries of origin are the necessary conditions for the voluntary return of refugees.

Conclusions

The refugee problem continues to challenge the international community. While refugee-receiving States should maintain their commitment to the protection of refugees and encourage tolerance towards diversity, refugee-producing States have the duty to prevent acts that produce mass exoduses of their populations.

At the same time the world needs to reach an agreement on how best to prevent new flows of refugees. The root causes of these situations should be further studied and rectified. If poverty is the major cause of refugee flows, some solutions could be found in development aid or technical assistance. If human rights violations are the principal causes of mass exoduses, solutions may lie in continuous monitoring by United Nations human rights bodies, condemnation of violations by the international community and the appointment of Special Rapporteurs to study specific situations and to make suggestions. If violent conflicts are the causes of flows, solutions may be found in preventive diplomacy, in the promotion of mediation as the means to conflict resolution and in respect for provisions of humanitarian law.

At all times, however, the international community should be prepared to meet demands in cases of emergency. In this respect, the early warning system set up by the United Nations Secretary-General could be of immense value. It could play an important role in predicting which situations are likely to generate large numbers of refugees. A coordinated and system-wide response will always be the most effective way of dealing with emergencies.

Another new challenge is posed by the internally displaced, those who are unable to cross borders and reach a territory in which they could receive the protection and assistance which they desperately need. It is estimated that there are over 24 million internally displaced persons in the world. The situation of many of them is excruciating, as they are often forced to remain within combat zones, are undernourished and have no access to clean water or medical supplies. The internally displaced will perhaps constitute the greatest challenge for the international community in coming years.

ANNEXES

ANNEX I

Convention relating to the Status of Refugees

Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950

ENTRY INTO FORCE: 22 April 1954, in accordance with article 43

PREAMBLE

The High Contracting Parties,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope

and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective coordination of measures taken to deal with this problem will depend upon the cooperation of States with the High Commission,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1. Definition of the term "refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country

of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either (*a*) "events occurring in Europe before 1 January 1951"; or (*b*) "events occurring in Europe or elsewhere before 1 January 1951"; and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (*a*) may at any time extend its obligations by adopting alternative (*b*) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist,

continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(*a*) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(*b*) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(*c*) He has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2. General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3. Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4. Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5. Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6. The term "in the same circumstances"

For the purposes of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular

individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7. Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as it accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8. Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such national-

ity. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9. Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10. Continuity of residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11. Refugee seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II

JURIDICAL STATUS

Article 12. Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13. Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14. Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting States, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15. Right of association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16. Access to courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III

GAINFUL EMPLOYMENT

Article 17. Wage-earning employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

(*a*) He has completed three years' residence in the country;

(*b*) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

(*c*) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18. Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19. Liberal professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER IV

WELFARE

Article 20. Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21. Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22. Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23. Public relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24. Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(*a*) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(*b*) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 25. Administrative assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certificates so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26. Freedom of movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely

within its territory subject to any regulations applicable to aliens generally in the same circumstances.

Article 27. Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28. Travel documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by Parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29. Fiscal charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30. Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31. Refugees unlawfully in the country of refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32. Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33. Prohibition of expulsion or return ("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Article 34. Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

Article 35. Cooperation of the national authorities with the United Nations

1. The Contracting States undertake to cooperate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(*a*) The condition of refugees;

(*b*) The implementation of this Convention;

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36. Information on national legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37. Relation to previous conventions

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between Parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII

FINAL CLAUSES

Article 38. Settlement of disputes and accession

Any dispute between Parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39. Signature, ratification and accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40. Territorial application clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such terri-

tories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 41. Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of parties which are not Federal States;

(*b*) With respect to those articles of this Convention that come within the legislative jurisidiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(*c*) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42. Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43. Entry into force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44. Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45. Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46. Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

(*a*) Of declarations and notifications in accordance with section B of article 1;

(*b*) Of signatures, ratifications and accessions in accordance with article 39;

(*c*) Of declarations and notifications in accordance with article 40;

(*d*) Of reservations and withdrawals in accordance with article 42;

(*e*) Of the date on which this Convention will come into force in accordance with article 43;

(*f*) Of denunciations and notifications in accordance with article 44;

(*g*) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

DONE at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

ANNEX II

1967 Protocol relating to the Status of Refugees

The Protocol was taken note of with approval by the Economic and Social Council in resolution 1186 (XLI) of 18 November 1966 and was taken note of by the General Assembly in resolution 2198 (XXI) of 16 December 1966. In the same resolution the General Assembly requested the Secretary-General to transmit the text of the Protocol to the States mentioned in article V thereof, with a view to enabling them to accede to the Protocol

ENTRY INTO FORCE: 4 October 1967, in accordance with article VIII

The States Parties to the present Protocol,

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

Article I. General provision

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and . . ." and the words ". . . as a result of such events", in article 1 A (2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1 B (1) (*a*) of the Convention, shall, unless extended under article 1 B (2) thereof, apply also under the present Protocol.

Article II. Cooperation of the national authorities with the United Nations

1. The States Parties to the present Protocol undertake to cooperate with the office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

(*a*) The condition of refugees;

(*b*) The implementation of the present Protocol;

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article III. Information on national legislation

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

Article IV. Settlement of disputes

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article V. Accession

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI. Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

(*b*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(*c*) A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations supply a statement of the law and practice of the Federation and its constituent units in regard to any particu-

lar provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article VII. Reservations and declarations

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provisions of the Convention other than those contained in articles 1, 3, 4, 16 (1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declarations made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article VIII. Entry into force

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

Article IX. Denunciation

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

Article X. Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform the States referred to in article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

Article XI. Deposit in the archives of the Secretariat of the United Nations

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all State Members of the United Nations and to the other States referred to in article V above.

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New York Office:
Centre for Human Rights
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New York, NY 10017
United States of America

Printed at United Nations, Geneva
GE.93-15875—June 1993—11,955

ISSN 1014-5567

Human Rights